

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER LEMA,
Petitioner,
v.
THE PEOPLE,
Respondent.¹

Case No. [20-cv-00631-VC](#) (PR)

**ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS;
DENYING CERTIFICATE OF
APPEALABILITY**

The petition for a writ of habeas corpus is denied. Even if Lema's claim were not procedurally defaulted, and even if the trial court's erroneous response to the jury's question gave rise to a federal due process claim, the error almost certainly did not have a substantial and injurious effect on the verdict, because there was virtually no evidence to support Lema's assertion that he merely committed manslaughter as opposed to murder. *See Brecht v. Abrahamson*, 507 U.S. 619, 637 (1993). This is so for the reasons explained by the California Court of Appeal in its harmless error analysis.


A certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c). This is not a case in which "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Clerk shall enter

¹In accordance with Habeas Rule 2(a) and Rule 25(d)(1) of the Federal Rules of Civil Procedure, the Clerk of the Court is directed to substitute Acting Warden Matthew Atchley as Respondent because he is Lema's current custodian.

judgment in favor of the respondent and close the file.

IT IS SO ORDERED.

Dated: November 27, 2020



VINCE CHHABRIA
United States District Judge